

Message Text

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TAGS: BDIS, EINV, EIND, EMIN, PFOR, PE

SUBJECT: MARCONA PRESS GUIDANCE

REF: LIMA 8653

1. LEGAL ADVISER IS CONCERNED THAT PRESS GUIDANCE REFTEL DOES NOT FULLY REFLECT FACT THAT THE STANDARD OF PROMPT, ADEQUATE, AND EFFECTIVE COMPENSATION RATHER THAN SIMPLY BEING A REQUIREMENT OF US LAW, IS A REQUIREMENT OF INTERNATIONAL LAW INCORPORATED INTO VARIOUS PROVISIONS OF US LEGISLATION. THUS, ANSWERS TO QUESTIONS 1 AND 2 SHOULD BE MODIFIED AS INDICATED BELOW.

2. ANSWER TO QUESTION 2 -- QUOTE AFTER THE COMPANY WAS EXPROPRIATED ON JULY 24, 1975, NEGOTIATIONS TOOK PLACE
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BETWEEN THE MARCONA MINING COMPANY AND THE PERUVIAN

GOVERNMENT. AFTER AN IMPASSE BETWEEN THE COMPANY AND THE GOVERNMENT OF PERU, THE US GOVERNMENT, AT THE REQUEST OF BOTH PARTIES, OFFERED ITS GOOD OFFICES IN OCTOBER 1975 TO HELP INSURE AN EQUITABLE SOLUTION COMPATIBLE WITH THE TRADITIONALLY GOOD RELATIONS BETWEEN THE US AND PERU, AND IN CONFORMITY WITH INTERNATIONAL (AND US) LAW WHICH REQUIRES PROMPT, ADEQUATE, AND EFFECTIVE COMPENSATION. END QUOTE.

3. ANSWER TO QUESTION 2 -- QUOTE THE QUESTION OF SANCTIONS OBVIOUSLY AROSE, BECAUSE THE US GOVERNMENT CANNOT IGNORE OUR LAW, INCORPORATING THE REQUIREMENTS OF INTERNATIONAL LAW REGARDING COMPENSATION. . . . THE PURPOSE OF THE NEGOTIATIONS AND THEIR COMPLEXITY DERIVED IN LARGE PART FROM THE FACT THAT THE TWO GOVERNMENTS HAD TO RECONCILE DIFFERING VIEWS AS TO THE REQUIREMENTS OF LOCAL LAW AND INTERNATIONAL LAW. PERU HAS ITS LAW WHICH IT BELIEVES MUST BE RESPECTED, AND THE US MUST ASSURE THAT INTERNATIONAL LEGAL OBLIGATIONS ARE MET. . . . END QUOTE.

4. PLEASE SEND US COPIES OF ALL RELEVANT PRESS COVERAGE OF SETTLEMENT. KISSINGER

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